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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,841	12/14/2000	Donald F. Gordon	19880003900	9495

7590                    11/19/2003

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EXAMINER

JEANTY, ROMAIN

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/737,841	GORDON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Romain Jeanty	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 October 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13, 16-18 and 21-28 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13, 16-18, 21-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### **Response to Amendment**

1. This Office action is responsive to the amendment filed October 28, 2003. By the amendment, applicant has amended claims 1-2, 8-11, 13, 16-17, 21-24. Claims 14-15 and 10-20 have been amended. Claims 1-13, 17-18 and 21-24 are pending in the application.

The entire amendment is objected to because some of the letters legibly readable amendment

### ***Claim Objections***

2. Claims 1-13, 17-18 and 21-24 are objected to because of the following informalities: because some letters are not legible. Appropriate correction is required. Furthermore, claim 1, line 17, it appears that "as" should be -- at --.

### **Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim 1 is directed to both a system and a method, and therefore resulting in a case of ambiguous claims. The claims are indefinite because they are hybrid claims.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9, 11-13, 16-18 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alonso et al (U.S. Patent No. 6,184,873) in view of Hendricks et al (U.S. Patent No. 6,539,548).

As per claims 1, 6, 7, 8 and 9, as best understood, Hendricks et al discloses an operations center for a television program packaging and delivery system comprising:  
in an interactive information distribution system comprising a provider equipment  
(See figure 1, element 202) and subscriber equipment comprising a plurality of set-top-terminals (STTs) (See figure, elements 220), providing programming based on subscriber's preferences (col. 17, lines 8-11 and col. 18, lines 37-50);

receiving at said provider equipment, subscriber selections associated with an interactive program guide, said interactive program guide sent to said subscriber equipment (col. 6, lines 36-45; col. 9, lines 55-59);

determining, at said service provider equipment, trend data "demographic information" associated with at least one subscriber, said trend data representative repeated subscriber

selections occurring at said subscriber equipment (a database for collecting demographic information about the subscriber) (col. 14, lines 34-38).

Providing programming to the subscriber based on the trend data “demographic data” to said at least one subscriber (i.e. deliver the program to the subscriber’s set-top-terminal) (col.18, lines 37-50).

Hendricks et al does not disclose a back channel and a forward distribution channel, and the providing video-on-demand (VOD) to subscribers. Alonso et al, in the same field of endeavor, discloses an interactive information distribution system comprising a back channel, forward distribution channel and the provision of video-on-demand (VOD)to subscribers. Thus, it would have been obvious to a person of ordinary skill in the art to modify the disclosures of Hendricks et al to include the back channel and provision of video-on-demand to subscribers as evidenced by Alonso et al. In so doing, would allow that a subscriber to receive requested programming information and also transmits subscriber’s requested information.

As per claim 2, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 2 in the rejection of claim 1. In addition, Hendricks et al discloses stamping each event with a time of occurrence for the event (col. 29 lines 53 through col. 30 line 10).

As per claim 3, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 3 in the rejection of claim 1. In addition, Hendricks et al discloses associating each event with a source where the event occurred (col. 24, lines 11-23).

As per claim 4, Hendricks et al discloses the limitations of claim 4 in the rejection of claim 1 above. In addition, Hendricks et al discloses wherein the collected trend data is reported

periodically (i.e. sending demographics of viewers during certain time period) (col. 23, lines 12-21).

As per claim 5, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 5 in the rejection of claim 1. In addition, Hendricks et al discloses the trend data/demographics is reported upon receiving a request for the trend data ) (i.e. the communication server sending requested viewer's data) (col. 27, lines 52-57).

As per claim 11, the combinations of Hendricks et al and Alonso et al discloses the limitations of claim 11 in the rejection of claim 1. In addition, Hendricks et al discloses wherein the user inputs include a selection for a particular program provided to the terminal (col. 7, lines 38-60).

As per claim 12, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 12 in the rejection of claim 1 above. In addition, Hendricks et al discloses wherein the user inputs include a request for a particular program to be provided to the terminal (the subscriber utilizing an iconic button to make a program selection) (col. 7, lines 43-55).

As per claim13, Hendricks et al discloses the limitations of claim 13 in the rejection of claim 1 above. In addition, Hendricks et al discloses the user navigation through a user interface (col. 6, lines 32-35) (the subscriber can navigate through a series of informative program selection menus) (col. 12, lines 62-65).

As per claim 16, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 16 in the rejection of claim 1. In addition, Hendricks et al discloses determining statistical information for the received trend data (i.e. accumulating trend data from the set-top-terminal for statistical purposes) (col. 11, lines 3-7).

As per claims 17 and 18, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 17 in the rejection of claim 1. In addition, Hendricks et al discloses polling the plurality of terminals for the trend data, wherein the terminals are randomly selected for polling (col. 10, lines 33-40).

As per claim 21, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 21 in the rejection of claim 1. In addition, Hendricks et al discloses wherein each received user input corresponds to an event at the terminal, and wherein the trend data includes a plurality of events collected at the plurality of terminals (col. 29 line 53 through col. 30 line 26).

As per claim 22, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 22 in the rejection of claim 1. In addition, Hendricks et al discloses wherein the analyzing includes categorizing the events into time of day at which the events occurred (col. 29 line 53 through col. 30 line 26).

As per claim 23, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 23 in the rejection of claim 1. In addition, Hendricks et al discloses wherein the analyzing includes categorizing the events into day of week in which the events occurred (col. 29 line 53 through col. 30 line 26).

As per claim 24, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 24 in the rejection of claim 1. In addition, Hendricks et al discloses geographical region of the subscriber's set-top-terminal. It would have been obvious to a person of ordinary skill in the art to include categorizing a plurality of events in the geographical regions of Hendricks. In so doing, a viewer purchasing trends, and regional interests can be

tracked. Note col. 17, lines 8-11; col. 21, lines 40-46 of Hendricks et al.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al in view of Alonso et al as applied to claim 1 above and further in view of Gordon et al (U.S. Patent 6,621,870).

As per claim 10, the combination of Hendricks et al and Alonso et al discloses the limitations of claim 10 in the rejection of claim 1 above. In addition, although Hendricks et al teaches the idea of filtering data, but the combination of Hendricks et al and Alonso et al fails to explicitly disclose the selection of a particular filter icon provided in a user interface at the terminal. However, Gordon et al discloses encoding of program guides and user interfaces using a programming filter icon (col. 14, lines 34-40). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify the teachings of Hendricks et al and Alonso et al to incorporate the filtering icon of Gordon et al. A person having ordinary skill in the art would have been motivated to use such a modification in order to encode a plurality of interactive program guides that enable a user to interactively review,

preview and select programming to for a selection systems, thereby filter out unwanted programs.

### Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. Wunderlich (EP0963116A2) disclose an apparatus video on demand program..

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

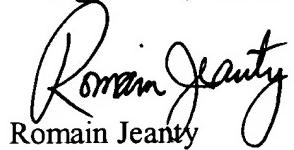
Any inquiry concerning this communication or earlier communications from the examiner should be directed Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached Monday-Thursday from 7:30 am to 6:00 pm. If attempts to reach the examiner are not successful, the examiner's supervisor, Tariq R Hafiz can be reached at (703) 305-9643.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to: Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
or faxed to: (703) 305-7687

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,  
Arlington VA, Seventh floor receptionist.

  
Romain Jeanty

Art Unit 3623

November 17, 2003